

*United States Court of Appeals
for the Second Circuit*



**SUPPLEMENTAL
APPENDIX**

74-2529

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

JAMES L. McCARTHY, HUBERTA McCARTHY, PETER F. FAY
and SHARON L. FAY,

Plaintiffs,

SHARON L. and PETER F. FAY,

Plaintiffs-Appellants,

- against -

EAST AFRICAN AIRWAYS CORPORATION, BRITISH
AIRCRAFT CORPORATION, LTD., BRITISH AIRCRAFT
CORPORATION (Commercial Aircraft), LTD.,
BRITISH AIRCRAFT CORPORATION (Operating), LTD.,
BRITISH AIRCRAFT CORPORATION (U.S.A.), INC.,
DUNLOP LIMITED, DUNLOP HOLDINGS, DUNLOP CO.
OF GREAT BRITAIN and BRITISH OVERSEAS AIRWAYS
CORPORATION, now known as BRITISH AIRWAYS,

Defendants,

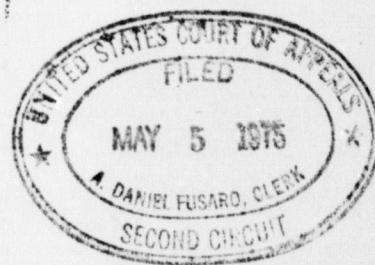
EAST AFRICAN AIRWAYS CORPORATION,

Defendant-Appellee.

On Appeal from the United States District Court
For the Southern District of New York

S U P P L E M E N T A L A P P E N D I X

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James J. Sullivan,
KREINDLER & KREINDLER
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PAGINATION AS IN ORIGINAL COPY

INDEX TO SUPPLEMENTAL APPENDIX

STIPULATION	Ia
DISTRICT COURT'S RULE 54(b) ORDER AND JUDGMENT	IIIa
AMENDED NOTICE OF APPEAL	IVa
DEFENDANT'S REQUESTS FOR ADMISSION DIRECTED TO PLAINTIFF PETER F. FAY	VIa

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES L. McCARTHY, HUBERTA McCARTHY, : 73 Civ. 1984 RO
PETER F. FAY and SHARON L. FAY, :

Plaintiffs, :

- against - :

EAST AFRICAN AIRWAYS CORPORATION, : STIPULATION
BRITISH AIRCRAFT CORPORATION, LTD., :
BRITISH AIRCRAFT CORPORATION
(Commercial Aircraft), LTD., :
BRITISH AIRCRAFT CORPORATION
(Operating), LTD., :
BRITISH AIRCRAFT CORPORATION
(U.S.A.), INC. :
DUNLOP LIMITED, DUNLOP HOLDINGS,
INC., DUNLOP CO. OF GREAT BRITAIN :
and BRITISH OVERSEAS AIRWAYS, now
known as BRITISH AIRWAYS, :

Defendants. :

-----X

IT IS HEREBY STIPULATED, AGREED AND CONSENTED TO by
and between the attorneys for the appellants, Sharon and Peter
Fay and the attorneys for the appellee, East African Airways
Corporation, that a supplemental joint appendix will be prepared
and filed.

IT IS FURTHER STIPULATED, AGREED AND CONSENTED TO by
the attorneys for the appellants, Sharon and Peter Fay and
the attorneys for the appellee, East African Airways Corporation
that said supplemental joint appendix will include:

(a) a true copy of this stipulation;

(b) a true copy of the Order of the Honorable Richard
Owen, United States District Judge, dated April
17, 1975 which directed the entry of final
judgment against Sharon and Peter Fay pursuant
to Rule 54(b) of the Federal Rules of Civil
Procedure;

(c) a true copy of the Notice of Appeal filed in
this action after the entry of the aforementioned
Rule 54(b) Order dated April 17, 1975; and
(d) a true copy of defendant's Request to Admit
directed to plaintiff Peter Fay.

Dated: New York, New York

April 29, 1975.

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East African Airways Corp

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APR 18 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES L. McCARTHY, HUBERTA McCARTHY, :
PETER F. FAY and SHARON L. FAY, :
-----X

Plaintiffs, :

- against - :

EAST AFRICAN AIRWAYS CORPORATION, :
BRITISH AIRCRAFT CORPORATION, LTD., :
BRITISH AIRCRAFT CORPORATION :
(Commercial Aircraft), LTD., :
BRITISH AIRCRAFT CORPORATION :
(Operating), LTD., :
BRITISH AIRCRAFT CORPORATION :
(U.S.A.), INC. :
DUNLOP LIMITED, DUNLOP HOLDINGS, :
INC., DUNLOP CO. OF GREAT BRITAIN :
and BRITISH OVERSEAS AIRWAYS, now :
known as BRITISH AIRWAYS, :
-----X

Defendants. :

73 Civ. 1984-RO

ORDER DIRECTING ENTRY
OF FINAL JUDGMENT
PURSUANT TO RULE 54(b)
OF THE FEDERAL RULES
OF CIVIL PROCEDURE

Defendant, East African Airways Corporation, having
moved for an order pursuant to Rule 12(b)(1) and 12 (h)(3) of
the Federal Rules of Civil Procedure dismissing this action as
to the plaintiffs Peter and Sharon Fay; and the Court having
granted said motion by its Memorandum and Order dated October
16, 1974, it is

ORDERED, that the Clerk of this Court enter a final
judgment upon the Order herein dismissing the Fay plaintiffs'
action against East African Airways Corporation, and the
undersigned expressly determines that there is no just reason
for delay in the entry of final judgment.

Dated: New York, New York

April 17, 1975.

RICHARD OWEN
United States District Judge

JUDGMENT ENTERED 4/29/75

Raymond F. Burghardt
CLERK

MICROFILM
44-29495

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JAMES L. McCARTHY, HUBERTA McCARTHY, :
PETER F. FAY and SHARON L. FAY,

Plaintiffs, : 73 Civ. 1984 RO
- against - :

EAST AFRICAN AIRWAYS CORPORATION, :
BRITISH AIRCRAFT CORPORATION, LTD., :
BRITISH AIRCRAFT CORPORATION :
(Commercial Aircraft), LTD., :
BRITISH AIRCRAFT CORPORATION :
(Operating), LTD., :
BRITISH AIRCRAFT CORPORATION :
(U.S.A.), INC. :
DUNLOP LIMITED, DUNLOP HOLDINGS, :
INC., DUNLOP CO. OF GREAT BRITAIN :
and BRITISH OVERSEAS AIRWAYS, now :
known as BRITISH AIRWAYS, :

Defendants. :

-----X

U.S. DISTRICT COURT
S.D. OF N.Y.
May 6 2 18 PM '75

Served NOTICE OF APPEAL

Notice is hereby given that plaintiffs Sharon and Peter Fay hereby appeal to the United States Court of Appeals for the Second Circuit from the Order entered by the Honorable Richard Owen, United States District Judge, on October 16, 1974, which granted the defendant East African Airways Corporation's motion to dismiss the plaintiffs' complaint for lack of subject matter jurisdiction and from the judgment entered the 29 day of April, 1975 in accordance with the Order of the Honorable Richard Owen, United States District Judge, dated April 17, 1975 which directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the entry of final judgment against the Fay plaintiffs.

Dated: New York, New York

May 6, 1975 ..

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Attorneys for Defendant
East African Airways Corp.

VIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

JAMES F. McCARTHY, HUBERTA McCARTHY,
PETER F. FAY and SHARON L. FAY,

Plaintiffs,

JUDGE MACMAHON

-against-

EAST AFRICAN AIRWAYS CORPORATION,
BRITISH AIRCRAFT CORPORATION, LTD.
BRITISH AIRCRAFT CORPORATION,
(Commercial Aircraft) LTD.,
BRITISH AIRCRAFT CORPORATION
(Operating) LTD.,
BRITISH AIRCRAFT CORPORATION
(U.S.A.) INC.,
DUNLOP LIMITED,
DUNLOP HOLDINGS, LTD.,
DUNLOP CO. OF GREAT BRITAIN, and
BRITISH OVERSEAS AIRWAYS CORPORATION,
now known as BRITISH AIRWAYS,

Docket No.
73 Civ. 1984-LFM

REQUEST FOR ADMISSIONS

Defendants.

-----x

Defendant EAST AFRICAN AIRWAYS CORPORATION requests plaintiff PETER F. FAY, within ten (10) days after service of this request, to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

1. That the document annexed hereto and marked Exhibit "A" is a true copy of plaintiff's passenger ticket and is genuine.

2. That the said ticket provided for defendant to transport plaintiff from Nairobi, Kenya to London, England on April 18, 1972.

3. That plaintiff PETER F. FAY used this ticket to travel on Flight No. EC720 operated by defendant EAST AFRICAN AIRWAYS CORPORATION on April 18, 1972.

4. That the alleged injuries complained of by plaintiff PETER F. FAY were sustained during the course of plaintiff's transportation pursuant to the passenger ticket annexed hereto as Exhibit "A".

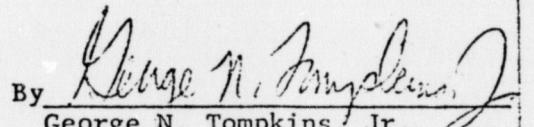
5. The passenger ticket annexed hereto as Exhibit "A" was purchased by plaintiff PETER F. FAY in Nairobi, Kenya.

6. The origin specified in the ticket was Nairobi, Kenya.

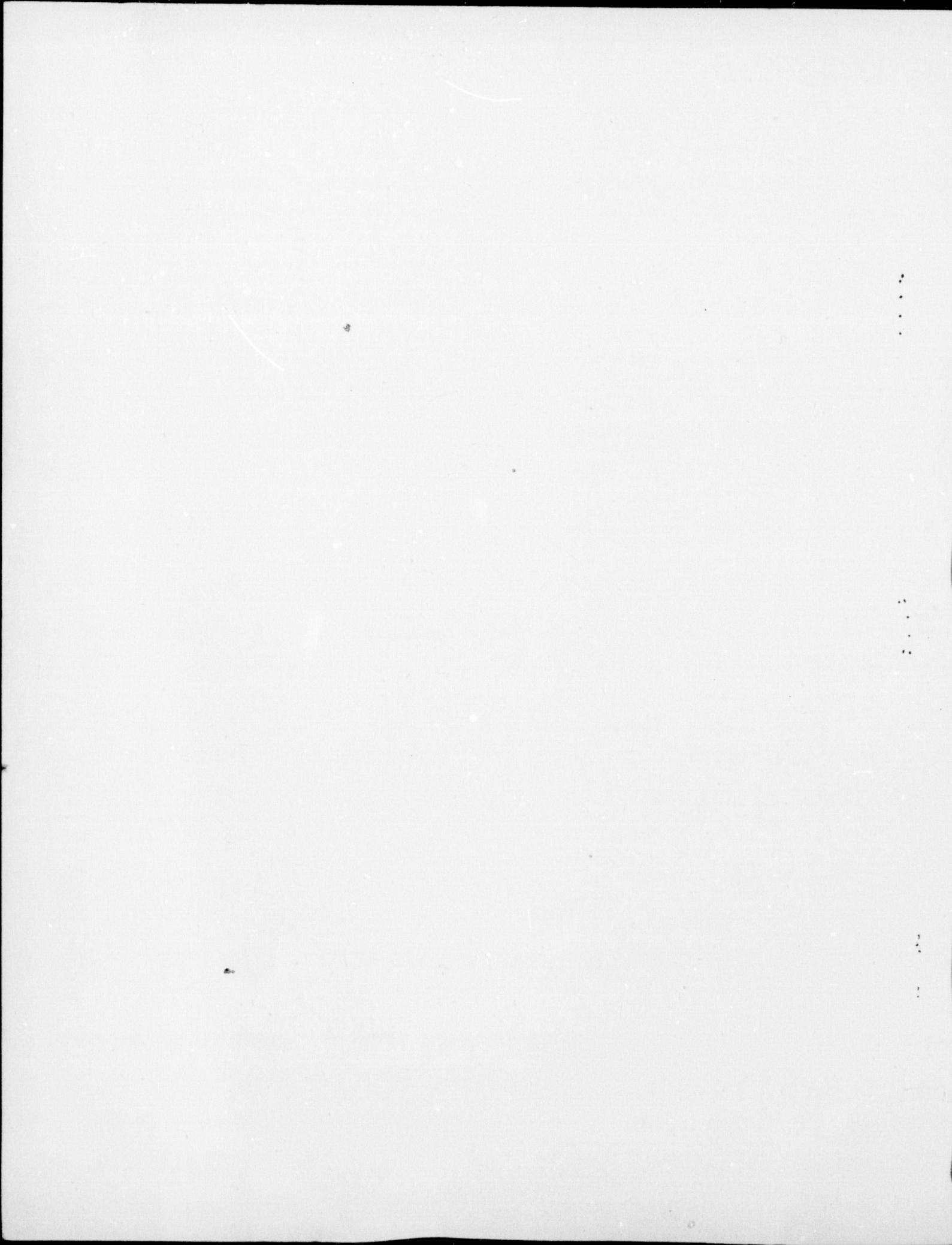
7. The destination specified in the ticket was London, England.

Dated: New York, New York
January 15, 1974

CONDON & FORSYTH

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A Member of the Firm
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ISSUED BY EAST AFRICAN AIRWAYS SUBJECT TO CONDITIONS OF CONTRACT ON PAGE 2		PASSENGER TICKET AND BAGGAGE CHECK		FLIGHT COUPON NO.	
NAME OF PASSENGER <i>M. FAY</i>		RESTRICTIONS/ENDORSEMENTS		10941 3.559.928	
NOT TRANSFERABLE NOT VALID BEFORE <i>18 APRIL 73</i>		NOT REFUNDABLE VALID FOR KC ONLY NON ENDORSABLE		<i>PXR</i>	
GOOD FOR PASSAGE BETWEEN POINTS OUTLINED BY HEAVY RULE		RESERVATIONS		BAGGAGE	
FROM <i>NAIROBI</i>	FARE BASIS <i>EC FRO</i>	FLIGHT/CLASS <i>12 400</i>	DATE <i>APR</i>	TIME <i>OK 20</i>	WEIGHT <i>3 40</i>
TO <i>LONDON</i>	CARRIER <i>Y</i>				
TICKET DESIGNATOR/TOUR CODE		ORIGIN		DESTINATION	
FARS <i>3004F</i>	EQIV. AMT. PO <i>3034F</i>	ISSUED IN CONJUNCTION WITH FORM <i>S</i>	ISSUED IN EXCHANGE FOR CARRIER <i>S</i>	FORM <i>S</i>	SERIAL NO. (S) <i>SP 3034F</i>
TAX <i>0</i>	CT <i>0</i>	TOTAL <i>3034F</i>	ORIGINAL ISSUE CARRIER	PLACE <i>0</i>	DATE <i>0</i>
FORM OF PAYMENT		FORM & SERIAL NO.		AGENT'S NUMERIC CODE	

EXHIBITA